

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MICHAEL J. GRANATA,)	
)	
Plaintiff,)	
)	
v.)	C.A. 06-1618
)	
)	Judge Hardiman
WESTMORELAND COUNTY PRISON,)	Magistrate Judge Caiazza
et al.,)	
)	
Defendants.)	

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

I. RECOMMENDATION

It is respectfully recommended that the Plaintiff's application for leave to proceed in forma pauperis (Doc. 1) be denied and that this action be dismissed, without prejudice.

II. REPORT

The Plaintiff, Michael J. Granata, ("the Plaintiff" or "Granata"), an inmate confined under judgment of sentence at the Westmoreland County Jail, Greensburg, Pennsylvania, filed this lawsuit under the Civil Rights Act of 1871, 42 U.S.C. § 1983, against a series of Defendants. Together with the Complaint, Granata filed an application for leave to proceed in forma pauperis.

The Prison Litigation Reform Act of 1996, 28 U.S.C. §1915(b) as amended on April 26, 1996, requires that prisoners who cannot pay the full filing fee immediately, submit an initial partial

filing fee and the balance in installment payments. Consistent with that Act, the court entered an Order (Doc. 2) on December 6, 2006, which directed Granata to submit by December 21, 2006, a certified copy of his institutional account statement from every jail or prison in which he was confined, showing the status of that account or accounts, from May 1, 2006 through the date that the account statement is submitted.

To this date, Granata has not submitted a six month institutional account statement. Because the court will not direct the prison to withdraw money from the Plaintiff's institutional account and pay it into the court until he authorizes a withdrawal, the initial partial filing fee in this case will never be paid.

The Plaintiff's refusal to comply with the directions which appear in the court's December 6, 2006, order makes it impossible for the court to comply with Congress' amendments to the law regulating the manner in which in forma pauperis prison litigation is to be administered. Because Granata has not complied with the previous order, the court must conclude that he no longer desires to prosecute this action.

It is respectfully recommended that the Plaintiff's application to proceed in forma pauperis be denied and that this action be dismissed, without prejudice.

In accordance with the Magistrate's Act, 28 U.S.C. § 636 (b) (1) (B) and (C), and Rule 72.1.4 (B) of the Local Rules for Magistrates, objections to this Report and Recommendation are due by January 20, 2007.

January 4, 2007

s/Francis X. Caiazza
Francis X. Caiazza
U.S. Magistrate Judge

cc:

MICHAEL J. GRANATA ,BK19902006
Westmoreland County Prison
3000 South Grande Boulevard
Greensburg, PA 15601